

PUBLIC CHAPTER NO. 312

HOUSE BILL NO. 545

By Representative Hackworth

Substituted for: Senate Bill No. 808

By Senators Woodson, Marrero

AN ACT to amend Tennessee Code Annotated, Section 36-5-501, relative to obligations of employers who withhold child support amounts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-501(g) is amended by deleting the second and third sentences of subdivision (g)(1) and by substituting instead the following new language:

The employer, person or corporation has a fiduciary duty to send amounts withheld for payment of a child support obligation to the clerk or the department's central collection and disbursement unit as directed in the income assignment order, or, if based upon a direct withholding from another state pursuant to the Uniform Interstate Family Support Act, to the other state as directed by that order of assignment. The amount shall be sent by the employer, person or corporation within (7) days of the date the person obligated to pay support is paid or the date such person is to be paid or the date the amount due such person is to be credited.

SECTION 2. Tennessee Code Annotated, Section 36-5-501(g), is amended by adding the following as new subdivision (3):

(3) Failure of any employer, person, corporation or institution to pay income withheld to the clerk or clerks, to the department, its contractor, or other entity, or Title IV-D child support agency in any other state that issued such order, as may be directed by the income assignment order, is a breach of a fiduciary duty to the obligor. Any action alleging breach of fiduciary duties by an employer, person, corporation or institution pursuant to this section must be brought within one (1) year from the date of such breach or violation; provided, that in the event the alleged breach or violation is not discovered nor reasonably should have been discovered within the one-year period, the period of limitation shall be one (1) year from the date such was discovered or reasonably should have been discovered. In no event shall any such action be brought more than three (3) years after the date on which the breach or violation occurred, except where there is fraudulent concealment on the part of the defendant, in which case the action shall be commenced within one (1) year after the alleged breach or violation is, or should have been, discovered.

SECTION 3. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: May 21, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 31st day of May 2007



PHIL BREDESEN, GOVERNOR